

By: Representatives Watson, Eads

To: Judiciary A

## HOUSE BILL NO. 750

1 AN ACT ENTITLED THE UNIFORM ATHLETE AGENTS ACT; TO PROVIDE  
2 DEFINITIONS; TO REQUIRE REGISTRATION FOR ATHLETE AGENTS; TO  
3 PROVIDE FOR A CERTIFICATE OF REGISTRATION ISSUED OR DENIED BY THE  
4 SECRETARY OF STATE; TO PROVIDE FOR THE SUSPENSION, REVOCATION OR  
5 REFUSAL TO RENEW REGISTRATION; TO PROVIDE FOR TEMPORARY  
6 REGISTRATION; TO PROVIDE FOR FEES; TO PROVIDE FOR THE FORM OF AN  
7 AGENCY CONTRACT; TO PROVIDE FOR NOTICE TO EDUCATIONAL  
8 INSTITUTIONS; TO PROVIDE FOR THE STUDENT ATHLETE'S RIGHT TO CANCEL  
9 A CONTRACT; TO PROVIDE FOR RECORD KEEPING; TO PROHIBIT CERTAIN  
10 ACTS; TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS OF  
11 THIS ACT; TO REPEAL SECTIONS 73-41-1 THROUGH 73-41-23, MISSISSIPPI  
12 CODE OF 1972, WHICH ARE THE ATHLETE AGENTS' REGISTRATION  
13 REQUIREMENTS ADMINISTERED BY THE SECRETARY OF STATE; AND FOR  
14 RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. **Short Title.** This act may be cited as the  
17 "Uniform Athlete Agents Act."

18 SECTION 2. **Definitions.** In this act:

19 (a) "Agency contract" means an agreement in which a  
20 student-athlete authorizes a person to negotiate or solicit on  
21 behalf of the student-athlete a professional-sports-services  
22 contract or an endorsement contract.

23 (b) "Athlete agent" means an individual who enters into  
24 an agency contract with a student-athlete or, directly or  
25 indirectly, recruits or solicits a student-athlete to enter into  
26 an agency contract. The term does not include a spouse, parent,  
27 sibling, grandparent or guardian of the student-athlete or an  
28 individual acting solely on behalf of a professional sports team  
29 or professional sports organization. The term includes an  
30 individual who represents to the public that the individual is an  
31 athlete agent.

32 (c) "Athletic director" means an individual responsible  
33 for administering the overall athletic program of an educational



34 institution or, if an educational institution has separately  
35 administered athletic programs for male students and female  
36 students, the athletic program for males or the athletic program  
37 for females, as appropriate.

38 (d) "Contact" means a communication, direct or  
39 indirect, between an athlete agent and a student-athlete, to  
40 recruit or solicit the student-athlete to enter into an agency  
41 contract.

42 (e) "Endorsement contract" means an agreement under  
43 which a student-athlete is employed or receives consideration to  
44 use on behalf of the other party any value that the  
45 student-athlete may have because of publicity, reputation,  
46 following, or fame obtained because of athletic ability or  
47 performance.

48 (f) "Intercollegiate sport" means a sport played at the  
49 collegiate level for which eligibility requirements for  
50 participation by a student-athlete are established by a national  
51 association for the promotion or regulation of collegiate  
52 athletics.

53 (g) "Person" means an individual, corporation, business  
54 trust, estate, trust, partnership, limited liability company,  
55 association, joint venture, government; governmental subdivision,  
56 agency or instrumentality; public corporation, or any other legal  
57 or commercial entity.

58 (h) "Professional-sports-services contract" means an  
59 agreement under which an individual is employed or agrees to  
60 render services as a player on a professional sports team, with a  
61 professional sports organization, or as a professional athlete.

62 (i) "Record" means information that is inscribed on a  
63 tangible medium or that is stored in an electronic or other medium  
64 and is retrievable in perceivable form.

65 (j) "Registration" means registration as an athlete  
66 agent pursuant to this act.



67 (k) "State" means a state of the United States, the  
68 District of Columbia, Puerto Rico, the United States Virgin  
69 Islands, or any territory or insular possession subject to the  
70 jurisdiction of the United States.

71 (l) "Student-athlete" means an individual who engages  
72 in, is eligible to engage in, or may be eligible in the future to  
73 engage in, any intercollegiate sport. If an individual is  
74 permanently ineligible to participate in a particular  
75 intercollegiate sport, the individual is not a student-athlete for  
76 purposes of that sport.

77 **SECTION 3. Administration; service of process; subpoenas.**

78 (1) The Secretary of State shall administer this act.

79 (2) By engaging in the business of an athlete agent in this  
80 state, a nonresident individual appoints the Secretary of State as  
81 the individual's agent to accept service of process in any civil  
82 action related to the individual's business as an athlete agent in  
83 this state.

84 (3) The Secretary of State may issue subpoenas for any  
85 relevant material under this act.

86 **SECTION 4. Athlete agents: registration required.**

87 (1) Except as otherwise provided in subsection (2), an  
88 individual may not act as an athlete agent in this state before  
89 being issued a certificate of registration under Section 6 or 8.

90 (2) An individual may act as an athlete agent before being  
91 issued a certificate of registration for all purposes except  
92 signing an agency contract if:

93 (a) A student-athlete or another acting on behalf of  
94 the student-athlete initiates communication with the individual;  
95 and

96 (b) Within seven (7) days after an initial act as an  
97 athlete agent, the individual submits an application to register  
98 as an athlete agent in this state.



99           (3) An agency contract resulting from conduct in violation  
100 of this section is void. The athlete agent shall return any  
101 consideration received under the contract.

102           SECTION 5. Registration as athlete agent; form;

103 **requirements.** (1) An applicant for registration shall submit an  
104 application for registration to the Secretary of State in a form  
105 prescribed by the Secretary of State. An application filed under  
106 this section is a public record. Except as otherwise provided in  
107 subsection (2), the application must be in the name of an  
108 individual and signed by the applicant under penalty of perjury  
109 and must state or contain:

110           (a) The name of the applicant and the address of the  
111 applicant's principal place of business;

112           (b) The name of the applicant's business or employer,  
113 if applicable;

114           (c) Any business or occupation engaged in by the  
115 applicant for the five (5) years next preceding the date of  
116 submission of the application;

117           (d) A description of the applicant's:

118                   (i) Formal training as an athlete agent;

119                   (ii) Practical experience as an athlete agent; and

120                   (iii) Educational background relating to the  
121 applicant's activities as an athlete agent.

122           (e) The names and addresses of three (3) individuals  
123 not related to the applicant who are willing to serve as  
124 references;

125           (f) The name, sport and last known team for each  
126 individual for whom the applicant provided services as an athlete  
127 agent during the five (5) years next preceding the date of  
128 submission of the application;

129           (g) The names and addresses of all persons who are:



130 (i) With respect to the athlete agent's business  
131 if it is not a corporation, the partners, officers, associates or  
132 profit-sharers; and

133 (ii) With respect to a corporation employing the  
134 athlete agent, the officers, directors and any shareholder of the  
135 corporation with a five percent (5%) or greater interest.

136 (h) Whether the applicant or any other person named  
137 pursuant to paragraph (g) has been convicted of a crime that, if  
138 committed in this state, would be a felony or other crime  
139 involving moral turpitude, and identify the crime;

140 (i) Whether there has been any administrative or  
141 judicial determination that the applicant or any other person  
142 named pursuant to paragraph (g) has made a false, misleading,  
143 deceptive or fraudulent representation;

144 (j) Any instance in which the conduct of the applicant  
145 or any other person named pursuant to paragraph (g) resulted in  
146 the imposition of a sanction, suspension or declaration of  
147 ineligibility to participate in an interscholastic or  
148 intercollegiate athletic event on a student-athlete or educational  
149 institution;

150 (k) Any sanction, suspension or disciplinary action  
151 taken against the applicant or any other person named pursuant to  
152 paragraph (g) arising out of occupational or professional conduct;  
153 and

154 (l) Whether there has been any denial of an application  
155 for, suspension or revocation of, or refusal to renew, the  
156 registration or licensure of the applicant or any other person  
157 named pursuant to paragraph (g) as an athlete agent in any state.

158 (2) An individual who has submitted an application for, and  
159 received a certificate of, registration or licensure as an athlete  
160 agent in another state, may submit a copy of the application and a  
161 valid certificate of registration or licensure from the other  
162 state in lieu of submitting an application in the form prescribed



163 pursuant to subsection (1). The Secretary of State shall accept  
164 the application and the certificate from the other state as an  
165 application for registration in this state if the application to  
166 the other state:

167 (a) Was submitted in the other state within the six (6)  
168 months next preceding the submission of the application in this  
169 state and the applicant certifies the information contained in the  
170 application is current;

171 (b) Contains information substantially similar to or  
172 more comprehensive than that required in an application submitted  
173 in this state; and

174 (c) Was signed by the applicant under penalty of  
175 perjury.

176 **SECTION 6. Certificate of registration; issuance or denial;**  
177 **renewal.** (1) Except as otherwise provided in subsection (3), the  
178 Secretary of State shall issue a certificate of registration to an  
179 individual who complies with Section 5(1).

180 (2) Except as otherwise provided in subsection (3), the  
181 Secretary of State shall issue a certificate of registration to an  
182 individual whose application has been accepted under Section 5(2).

183 (3) The Secretary of State may refuse to issue a certificate  
184 of registration if the Secretary of State determines that the  
185 applicant has engaged in conduct that has a significant adverse  
186 effect on the applicant's fitness to serve as an athlete agent.  
187 In making the determination, the Secretary of State may consider  
188 whether the applicant has:

189 (a) Been convicted of a crime that, if committed in  
190 this state, would be a felony or other crime involving moral  
191 turpitude;

192 (b) Made a materially false, misleading, deceptive or  
193 fraudulent representation as an athlete agent or in the  
194 application;



195 (c) Engaged in conduct that would disqualify the  
196 applicant from serving in a fiduciary capacity;

197 (d) Engaged in conduct prohibited by Section 14;

198 (e) Had a registration or licensure as an athlete agent  
199 suspended, revoked, or denied or been refused renewal of  
200 registration or licensure in any state;

201 (f) Engaged in conduct or failed to engage in conduct  
202 the consequence of which was that a sanction, suspension or  
203 declaration of ineligibility to participate in an interscholastic  
204 or intercollegiate athletic event was imposed on a student-athlete  
205 or educational institution; or

206 (g) Engaged in conduct that significantly adversely  
207 reflects on the applicant's credibility, honesty or integrity.

208 (4) In making a determination under subsection (3), the  
209 Secretary of State shall consider:

210 (a) How recently the conduct occurred;

211 (b) The nature of the conduct and the context in which  
212 it occurred; and

213 (c) Any other relevant conduct of the applicant.

214 (5) An athlete agent may apply to renew a registration by  
215 submitting an application for renewal in a form prescribed by the  
216 Secretary of State. An application filed under this section is a  
217 public record. The application for renewal must be signed by the  
218 applicant under penalty of perjury and must contain current  
219 information on all matters required in an original registration.

220 (6) An individual who has submitted an application for  
221 renewal of registration or licensure in another state, in lieu of  
222 submitting an application for renewal in the form prescribed  
223 pursuant to subsection (5), may file a copy of the application for  
224 renewal and a valid certificate of registration from the other  
225 state. The Secretary of State shall accept the application for  
226 renewal from the other state as an application for renewal in this  
227 state if the application to the other state:



228 (a) Was submitted in the other state within the last  
229 six (6) months and the applicant certifies the information  
230 contained in the application for renewal is current;

231 (b) Contains information substantially similar to or  
232 more comprehensive than that required in an application for  
233 renewal submitted in this state; and

234 (c) Was signed by the applicant under penalty of  
235 perjury.

236 (7) A certificate of registration or a renewal of a  
237 registration is valid for two (2) years.

238 **SECTION 7. Suspension, revocation or refusal to renew**

239 **registration.** (1) The Secretary of State may suspend, revoke or  
240 refuse to renew a registration for conduct that would have  
241 justified denial of registration under Section 6(3).

242 (2) The Secretary of State may deny, suspend, revoke or  
243 refuse to renew a registration only after proper notice and an  
244 opportunity for a hearing.

245 **SECTION 8. Temporary registration.** The Secretary of State  
246 may issue a temporary certificate of registration while an  
247 application for registration or renewal is pending.

248 **SECTION 9. Registration and renewal fee.** An application for  
249 registration or renewal of registration must be accompanied by a  
250 fee in the following amount:

251 (a) One Hundred Dollars (\$100.00) for an initial  
252 application for registration;

253 (b) One Hundred Dollars (\$100.00) for an application  
254 for registration based upon a certificate of registration or  
255 licensure issued by another state;

256 (c) Fifty Dollars (\$50.00) for an application for  
257 renewal of registration; or

258 (d) Fifty Dollars (\$50.00) for an application for  
259 renewal of registration based upon an application for renewal of  
260 registration or licensure submitted in another state.





261           SECTION 10. Form of contract. (1) An agency contract must  
262 be in a record, signed by the parties.

263           (2) An agency contract must state or contain:

264                 (a) The amount and method of calculating the  
265 consideration to be paid by the student-athlete for services to be  
266 provided by the athlete agent under the contract and any other  
267 consideration the athlete agent has received or will receive from  
268 any other source for entering into the contract or for providing  
269 the services;

270                 (b) The name of any person not listed in the  
271 application for registration or renewal who will be compensated  
272 because the student-athlete signed the agency contract;

273                 (c) A description of any expenses that the  
274 student-athlete agrees to reimburse;

275                 (d) A description of the services to be provided to the  
276 student-athlete;

277                 (e) The duration of the contract; and

278                 (f) The date of execution.

279           (3) An agency contract must contain, in close proximity to  
280 the signature of the student-athlete, a conspicuous notice in  
281 boldface type in capital letters stating:

282                                           **WARNING TO STUDENT-ATHLETE**

283                   **IF YOU SIGN THIS CONTRACT:**

284                   (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**  
285 **STUDENT-ATHLETE IN YOUR SPORT;**

286                   (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**  
287 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**  
288 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

289                   (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**  
290 **SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR**  
291 **ELIGIBILITY.**

292           (4) An agency contract that does not conform to this section  
293 is voidable by the student-athlete.



294 (5) The athlete agent shall give a copy of the signed agency  
295 contract to the student-athlete at the time of signing.

296 SECTION 11. Notice to educational institution. (1) Within  
297 seventy-two (72) hours after entering into an agency contract or  
298 before the next scheduled athletic event in which the  
299 student-athlete may participate, whichever occurs first, the  
300 athlete agent shall give notice in a record of the existence of  
301 the contract to the athletic director of the educational  
302 institution at which the student-athlete is enrolled or the  
303 athlete agent has reasonable grounds to believe the  
304 student-athlete intends to enroll.

305 (2) Within seventy-two (72) hours after entering into an  
306 agency contract or before the next athletic event in which the  
307 student-athlete may participate, whichever occurs first, the  
308 student-athlete shall inform the athletic director of the  
309 educational institution at which the student-athlete is enrolled  
310 that he or she has entered into an agency contract.

311 SECTION 12. Student-athlete's right to cancel. (1) A  
312 student-athlete may cancel an agency contract by giving notice in  
313 a record to the athlete agent of the cancellation within fourteen  
314 (14) days after the contract is signed.

315 (2) A student-athlete may not waive the right to cancel any  
316 agency contract.

317 (3) If a student-athlete cancels an agency contract, the  
318 student-athlete is not required to pay any consideration under the  
319 contract or to return any consideration received from the agent to  
320 induce the student-athlete to enter into the contract.

321 SECTION 13. Required records. (1) An athlete agent shall  
322 retain the following records for a period of five (5) years:

323 (a) The name and address of each individual represented  
324 by the athlete agent;

325 (b) Any agency contract entered into by the athlete  
326 agent; and



327 (c) Any direct costs incurred by the athlete agent in  
328 the recruitment or solicitation of a student-athlete.

329 (2) Records required by subsection (1) to be retained are  
330 open to inspection by the Secretary of State during normal  
331 business hours.

332 SECTION 14. Prohibited acts. (1) An athlete agent may not  
333 do any of the following with the intent to induce a  
334 student-athlete to enter into an agency contract:

335 (a) Give any materially false or misleading information  
336 or make a materially false promise or representation;

337 (b) Furnish anything of value to a student-athlete  
338 before the student-athlete enters into the agency contract; or

339 (c) Furnish anything of value to any individual other  
340 than the student-athlete or another registered athlete agent.

341 (2) An athlete agent may not intentionally:

342 (a) Initiate contact with a student-athlete unless  
343 registered under this act;

344 (b) Refuse or willfully fail to retain or permit  
345 inspection of the records required by Section 13;

346 (c) Violate Section 4 by failing to register;

347 (d) Provide materially false or misleading information  
348 in an application for registration or renewal of registration;

349 (e) Predate or postdate an agency contract; or

350 (f) Fail to notify a student-athlete prior to the  
351 student-athlete's signing an agency contract for a particular  
352 sport that the signing by the student-athlete may make the  
353 student-athlete ineligible to participate as a student-athlete in  
354 that sport.

355 SECTION 15. Criminal penalties. The commission of any act  
356 prohibited by Section 14 by an athlete agent is a felony  
357 punishable by a fine of not more than Ten Thousand Dollars  
358 (\$10,000.00) or by imprisonment of not more than two (2) years, or  
359 both.



360           SECTION 16. Civil remedies. (1) An educational institution  
361 has a right of action against an athlete agent or a former  
362 student-athlete for damages caused by a violation of this act. In  
363 an action under this section, the court may award to the  
364 prevailing party costs and reasonable attorney's fees.

365           (2) Damages of an educational institution under subsection  
366 (1) include losses and expenses incurred because, as a result of  
367 the activities of an athlete agent or former student-athlete, the  
368 educational institution was injured by a violation of this act or  
369 was penalized, disqualified or suspended from participation in  
370 athletics by a national association for the promotion and  
371 regulation of athletics, by an athletic conference, or by  
372 reasonable self-imposed disciplinary action taken to mitigate  
373 sanctions.

374           (3) A right of action under this section does not accrue  
375 until the educational institution discovers or by the exercise of  
376 reasonable diligence would have discovered the violation by the  
377 athlete agent or former student-athlete.

378           (4) Any liability of the athlete agent or the former  
379 student-athlete under this section is several and not joint.

380           (5) This act does not restrict rights, remedies or defenses  
381 of any person under law or equity.

382           SECTION 17. Administrative penalty. The Secretary of State  
383 may assess a civil penalty against an athlete agent not to exceed  
384 Twenty-five Thousand Dollars (\$25,000.00) for a violation of this  
385 act.

386           SECTION 18. Application and construction. In applying and  
387 construing this uniform act, consideration must be given to the  
388 need to promote uniformity of the law with respect to its subject  
389 matter of this act among states that enact it.

390           SECTION 19. Sections 73-41-1, 73-41-3, 73-41-5, 73-41-7,  
391 73-41-9, 73-41-11, 73-41-13, 73-41-15, 73-41-17, 73-41-19,  
392 73-41-21 and 73-41-23, Mississippi Code of 1972, which are the



393 athlete agents' registration requirements administered by the  
394 Secretary of State, are hereby repealed.

395 SECTION 20. This act shall take effect and be in force from  
396 and after July 1, 2001.

